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In Re Application of: Issam Abouloukme
US Application Number: 10/519,269
Filing Date: 22 December 2004
Title: Retractable Self Rolling Blind, Awning or Cover Apparatus
Group Art Unit: 3634
Examiner: Johnson, Blair M.
Attorney Docket No: AB00002U

30 October 2007

Response After Final Rejection

Dear Sirs,

Petition for an Extension of Time

The Applicant is in receipt of the examination report, issued on 2 July 2007, in respect of the above referenced application. The three month period for reply expired on 2 October 2007. Please extend the period for the timely submission of a response by one month, pursuant to 37 CFR 1.136(a). A petition form PTO/SB/22A and payment one-month extension fee of \$60 pursuant to 37 CFR 1.17 are enclosed.

Claim Amendments after Final Rejection

Please cancel claim 2, and enter the amendment to claim 1. Claims 3 and 9 are amended and now depend upon the amended claim 1. Claim amendment sheets are enclosed.

Reply after Final Rejection

1. Objection against the drawings should be withdrawn

The Examiner contended that none of the drawings showed the invention as stated in claim 6. In the Applicant's communication to the Examiner filed on 11 April 2007, the Applicant submitted claim amendments. This communication was received by the Examiner. The requested amendments included the cancellation of claim 6. Therefore, the Examiner's objection to the drawings should be withdrawn.

2. The nonstatutory ground of double patenting is not made out

The Examiner maintained the final rejection against claims 1-5 and 7-9, contending that these claims, when considered in view of US 6948542, amounted to double-patenting. The Examiner was mistaken. While the current application and US 6948542 relate to superficially similar subject matter, they do not disclose the same invention. As will be demonstrated, amended claims 1, 3-5, and 7-9 are patentable, and are patentably distinct from the claims (or disclosure) of US 6948542.

The Examiner ignored key structural differences between the claimed inventions

The Examiner erred in his analysis of claims 1, 8, and 12 of US 6948542 and of the present invention. There are essential structural differences between the present invention and the technology claimed in US 6984542. Specifically, claims 1, 8, and 12 of US 6948542 each recite a tension bar. In contrast, the present application claims a carriage that does not have any component that is equivalent to the tension bar. There can be no double patenting between the present application and US 6948542. The

tension bar and the carriage are two structurally distinct inventions that work in entirely different ways to solve a problem. They are patentably distinct.

The “tension bar” and the “carriage” define entirely different inventions

The rolling device stated in claims 1, 8, or 12 of US 6948542 comprises a tube to which the fabric sheets are attached. The tube is carried by brackets that are affixed onto a tension bar. The tension bar is structurally significant because it is an anchor that enables the spring mechanism to be tensioned when the fabric sheets are unrolled from the tube. One travelling wheel is mounted on each end of the tension bar, therefore this tension bar and wheel combination also allows the tube to travel with respect to the window frame. The tension bar is an essential part of the invention as recited in any of claims 1, 8, and 12 of US 6948542.

Claim 1 of the present application recites a carriage that acts to stabilize the tube. A tension bay is not required. Each carriage has an array of multiple wheels. Each carriage is structurally different compared to a simple directly mounted wheel. The Examiner should not mistake the carriage (claimed in the present application) to be a mere replacement for the mounted wheel claimed in US 6948542. Further, claim 1 recites no anti-torsion device of any kind that is provided in parallel with and is affixed to the keyway tube. Therefore, the carriage itself does not comprise any component that is structurally equivalent to the tension bar, and yet the carriage also allows the spring mechanism to be tensioned while allowing the tube to travel.

In the present application, one structure (the carriage) replaces another, completely different, structure (the tension bar) that is unambiguously required by the claimed inventions of US 6948542. The carriage and the tension bar are two completely different solutions to the same problem, and cannot be said to be patentably indistinct variations of one another.

The “obviousness-type” double patenting is not made out

The Examiner also rejected claim 3, 7, 8 and 9. Claim 3 of the present application was rejected over US 6984542 in view of Berkemeier (US 4480675). The Applicant already reasoned, in the previous submission of 11 April 2007, that the combination of Berkemeier and US 6984542 is illogical. The invention described by Berkemeier has tight rails (refer to Figure 3) and therefore does not require the wheels suggested in US 6984542. Furthermore, Berkemeier fails to disclose the carriage recited in claim 1. Therefore the combination of US 6984542 and Berkemeier fails to defeat claim 3.

Claim 7 was rejected over US 6984542 in view of Brodie (US 642423). As the Applicant already submitted, Brodie does not disclose any of the integers recited in the present application. Therefore, there could be no legally permissible reason for combining US 6984542 and Brodie. In the Final Rejection of 2 July 2007, the Examiner contended because Brodie disclosed the joining of two or more rolling curtains, it could be combined with US 6984542. This contention is without logic. What the Examiner must consider, is whether it is mechanically possible to combine US 6984542 and Brodie, in such a way that would reproduce the invention recited in claim 7. The answer is no. In claim 7 of the present application, each rolling apparatus is movable. In contrast, in the “curtain actuating system” disclosed by Brodie, each curtain (ref 5) requires its own non-moving shaft (ref 6) that is affixed to the top of a window. This limitation in Brodie’s curtain actuating system makes the system unsuitable for combining with the invention claimed in US 6984542. Therefore Brodie cannot be combined with US 6984542 to defeat claim 7.

Claim 8 was rejected over US 6984542 in view of White et al (US4502674). Claim 8 recites that the self-retractable rolling apparatus comprises a ceiling portion and a wall portion, and that the keyway tube is the junction between the portions. White et al discloses a structure that is similar to the limitation recited by claim 8. However, neither US 6984542 nor White et al discloses the carriage recited in claim 1. Therefore the Examiner’s combination does not make claim 8 obvious.

Claim 9 was rejected as an obvious modification of US 6984542. Again, an carriage, equivalent to that recited in the amended claim 1 is not described in US 6984542. Therefore, the invention recited in claim 9 is patentable, and is not subject to double patenting in view of US 6984542.

3. Amendments to further emphasize the structural differences between the claimed inventions

Nevertheless, to further clarify the patentable distinctness between a carriage and a tension bar, the Applicant has amended claim 1. Claim 1 now specifies that the carriage comprises at least one wheel in front of and one wheel behind the keyway tube. Claim 2 is now cancelled. The amended claim 1 is patentably distinct from claim 1 of US 6984542. Claims 3-5 and 7-9, which depend on the amended claim 1, are therefore also patentably distinct from claim 1 of US 6984542.

The Examiner's final rejection was made based on an incomplete consideration of the Applicant's invention, the Applicant's previous submission, and the prior art. The ground of double patenting, relied by the Examiner to raise the final rejection, has not been validly made out. Nevertheless, the Applicant has submitted claim amendments to more clearly distinguish the present invention away from the prior art. The Examiner is requested to consider the Applicant's arguments and allow the amended claims.

Please charge any deficiency in the fees due to our Deposit Account No. 503458 in the name of Molins & Co.

Regards,



Michael Molins

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